

MARK A. GOODMAN, ESQ.
 Nevada State Bar No. 10357
 GOODMAN LAW CENTER, P.C.
 348 Mill Street
 Reno, Nevada 89501
 Telephone: (775) 473-4268
 Facsimile: (775) 996-8787
 Email: Mark@Goodmanlawnevada.com
 Attorney for Defendants/Counterclaimants
 WIND PUMP POWER, LLC
 SUNFLOWER WIND, LLC
 DAN RASURE

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * * * *

NEVADA CONTROLS, LLC, a Nevada
 Limited Liability Company,

Plaintiff,

v.

WIND PUMP POWER, LLC, a Kansas
 Limited Liability Company, SUNFLOWER
 WIND, LLC, a Kansas Limited Liability
 Company; DAN RASURE, an individual,

Defendants.

WIND PUMP POWER, LLC, a Kansas
 Limited Liability Company,

Counterclaimant,

v.

NEVADA CONTROLS, LLC, a Nevada
 Limited Liability Company,

Counterdefendant.

) Case No. 3-12-cv-00068-HDM-VPC

) **MOTION FOR CONTINAUNCE OF**
) **HEARING**

) (First Request for Continuance)

COME NOW, Defendant/Counterclaimant, WIND PUMP POWER, LLC, and
 Defendants, SUNFLOWER WIND, LLC, and DAN RASURE (hereinafter referred to

collectively as “Defendants”), by and through their special attorney or record, MARK A. GOODMAN, ESQ., of GOODMAN LAW CENTER, P.C., and hereby move the Court for an Order continuing the Hearing on the Motion to Strike and Request for Entry of Default Against Defendants WIND PUMP POWER, LLC, and SUNFLOWER WIND, LLC (Docket No. 28), filed July 13, 2012, by Plaintiff/Counterdefendant, NEVADA CONTROLS, LLC (hereinafter referred to as “Plaintiff”), which currently is scheduled at 9:30 a.m. on November 6, 2012 (Docket No. 32).

This Motion is made upon the ground that Mr. Goodman will be out of the country for a regularly scheduled vacation from October 26, 2012, to November 9, 2012, and is based upon the Points and Authorities submitted herewith, and upon all of the pleading, papers, and documents on file herein.

DATED: Friday, October 26, 2012.

GOODMAN LAW CENTER

/s/MARK A. GOODMAN, ESQ.

MARK A. GOODMAN, ESQ.
Nevada State Bar No. 10357
GOODMAN LAW CENTER, P.C.
348 Mill Street
Reno, Nevada 89501
Telephone: (775) 473-4268
Facsimile: (775) 996-8787
Email: Mark@Goodmanlawnevada.com
Attorney for Defendants/Counterclaimants
WIND PUMP POWER, LLC
SUNFLOWER WIND, LLC
DAN RASURE

///

///

BRIEF STATEMENT OF FACTS

On July 13, 2012, Plaintiff filed its Motion to Strike (Docket No. 28).

On August 7, 2012, the Court entered its Minute Order in Chambers, setting Plaintiff's Motion to Strike for Hearing at 10:30 a.m. on Thursday, August 23, 2012 (Docket No. 30).

On August 20, 2012, the Court entered its Minute Order in Chambers, ordering that Plaintiff's Motion to Strike, set for 10:30 a.m. on Thursday, August 23, 2012, should be conducted telephonically before the Court, and that all parties should appear telephonically.

On August 23, 2012, a telephonic Hearing was conducted before the Court, at which time the Court ordered that Plaintiff's Motion to Strike would be reset for Hearing at 9:30 a.m. on Tuesday, November 6, 2012, and that the Hearing would go forward on that date whether Defendant, DAN RASURE ("Mr. Rasure"), had secured counsel or not.

POINTS AND AUTHORITIES

I

THE COURT SHOULD GRANT DEFENDANTS A BRIEF CONTINUANCE, IN ORDER TO ALLOW MR. GOODMAN TIME TO OPPOSE PLAINTIFF'S MOTION TO STRIKE.

The decision to grant or deny a requested continuance lies within the broad discretion of the district court, and will not be disturbed on appeal absent clear abuse of that discretion. The Ninth Circuit structures its review in accordance with four salient factors that appellate courts have considered when reviewing denials of requests for continuances. First, the Court considers the extent of appellant's diligence in his efforts to ready his defense prior to the date set for hearing. Second, the Court considers how likely

1 it is that the need for a continuance could have been met if the continuance had been
2 granted. Third, the Court considers the extent to which granting the continuance would
3 have inconvenienced the court and the opposing party, including its witnesses. Finally, the
4 Court considers the extent to which the appellant might have suffered harm as a result of
5 the district court's denial. *See, United States v. Flynt*, 756 F.2d 1352, 1358-59 (9th Cir.
6 1985).

8 In the present case, Mr. Rasure has made diligent efforts to retain counsel for
9 Defendants in the State of Nevada, but he nevertheless has experienced considerable
10 difficulty in doing so. Mr. Goodman now has made a special appearance for the limited
11 purpose of opposing Plaintiff's Motion to Strike, which currently is scheduled to be heard
12 at 9:30 a.m. on November 6, 2012 (Docket No. 32). Unfortunately, Mr. Goodman will be
13 out of the country for a regularly scheduled vacation from October 26, 2012, to November
14 9, 2012. If the continuance is granted, then Defendants will be able to oppose Plaintiff's
15 Motion to Strike, and the need for the continuance will have been met. Obviously, the
16 prior delay in obtaining counsel already has inconvenienced both the Court and opposing
17 counsel; however, a brief continuance for the purpose of allowing Mr. Goodman to oppose
18 Plaintiff's Motion to Strike clearly would be in the interest of justice, particularly where, as
19 here, Defendants would suffer the ultimate prejudice and harm, by having their
20 counterclaim stricken and by having defaults entered against them, if the Court were to
21 deny Defendants' Motion for a continuance. *See, United States v. Flynt, supra*, 756 F.2d at
22 1358-59. Although Mr. Goodman in good faith requested a brief continuance from
23 Plaintiff's counsel, Leigh Goddard, Esq., prior to filing the instant Motion for Continuance
24 of Hearing, Ms. Goddard denied Mr. Goodman's request.

28 ///

CONCLUSION

For all of the above-stated reasons, the Court should grant Defendants a brief continuance, in order that Mr. Goodman time to oppose Plaintiff's Motion to Strike.

DATED: Friday, October 26, 2012.

GOODMAN LAW CENTER

/s/MARK A. GOODMAN, ESQ.

MARK A. GOODMAN, ESQ.
Nevada State Bar No. 10357
GOODMAN LAW CENTER, P.C.
348 Mill Street
Reno, Nevada 89501
Telephone: (775) 473-4268
Facsimile: (775) 996-8787
Email: Mark@Goodmanlawnevada.com
Attorney for Defendants/Counterclaimants
WIND PUMP POWER, LLC
SUNFLOWER WIND, LLC
DAN RASURE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an agent of GOODMAN LAW CENTER, P.C., and that I caused a true and correct copy of **MOTION FOR CONTINAUNCE OF HEARING** to be served by:

☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the Law Offices of Goodman Law Center, P.C., mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.

☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the addressee(s) at the address(es) set forth below.

☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

☐ Federal Express or other overnight delivery

☐ Reno/Carson Messenger Service

addressed, as follows:

Leigh Goddard, Esq.
Jessica Woelfel, Esq.
McDonald Carano Wilson LLP
100 West Liberty Street, 10th Floor
Post Office Box 2670
Reno, Nevada 89505-2670

DATED: Friday, October 26, 2012.

/s/ Paula Rodriguez

PAULA RODRIGUEZ, CLA
Legal Assistant to Mr. Goodman